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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,728	12/20/2001	Dominic Fulginiti	042390.P13349	9784
<div>7590 03/06/2007 Christian A. Nicholes BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026</div>			<div>EXAMINER ROCHE, TRENTON J</div> <div>ART UNIT PAPER NUMBER 2193</div>	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/027,728

Applicant(s)

FULGINITI ET AL.

Examiner

Trenton J. Roche

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8-11, 15, 16, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-11, 15, 16, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to communications filed 14 December 2006.
2. Per Applicants' request, amended claims 1, 4, 8, 11, 15, 19 and 20 have been entered. Claims 1-4, 8-11, 15, 16, 19 and 20 are currently pending and have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 8-11, 15, 16, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,854,009 to Hughes.

Per claim 1:

Hughes discloses:

- receiving indications from a device, via a network, each indication corresponding to a status
(Note Figure 10A. Each communication from the device to the server is an indication of the state of the device. Further, note Figure 12, items 1202-1208 in which the client connects to the server and indicates that the base OS can be downloaded. "The server 204 downloads at least a first portion of a base OS..." in col. 17 lines 60-61.)

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- upon determining from the indication that the device is in a state in which a first system has not been installed on the device, instructing the device through the network to install the first system prior to installing a second system, the second system including a first operating system (Note Figure 10B and the corresponding sections of the disclosure, and further, “the boot operating system is loaded in the client. The boot OS is a partial version of a Linux OS having sufficient capability to establish a connection...” in col. 17 lines 47-49. The boot OS is loaded onto the system prior to installing the second system which contains a different OS, as noted in Figure 10D.)
- upon receiving through the network from the device an indication that the first system has been installed, indicating through a user interface that the device is in a state in which the device is available to install an operating system selectable through the user interface (Note Figure 10C and the corresponding sections of the disclosure, and further, “the server 204 downloads an initial options menu, from which the user can select a profile. Each profile corresponds to a...configuration of OS...” in col. 17 lines 54-57.)
- and upon a selection of the operating system, instructing the device through the network to install the operating system (Note Figure 10D and the corresponding sections of the disclosure, and further, “the server 204 downloads...a first portion of each application and OS...” in col. 17 lines 66-67.)

substantially as claimed.

Per claims 2 and 3:

The rejection of claim 1 is incorporated, and further, Hughes discloses indicating through the user interface that the device is in a state in which an operating system has been installed for the device as

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claimed (Note the rejection of claim 1. Booting into the new operating system would be a user-interface indication of the operating system being installed.)

Per claim 4:

The rejection of claim 2 is incorporated, and further, Hughes discloses upon receiving the indication that the second system has been installed, indicating through the user interface that the device is in a third state in which the device is available for a third system to be selected for the device, the third system including a second operating system, installing the first system prior to the third system, and upon receiving an indication that the first system has been installed, selecting the third system through the user interface and instructing the device through the network to install the third system as claimed (Note Figures 10D and 10E. The user of the system can opt to install multiple secondary OS's on the system which may all be used, and these OS's are installed after the first system is installed.)

Per claims 8-11:

Claims 8-11 are directed to a machine-readable medium for performing the method of claims 1-4, respectively, and are rejected under the same rationale set forth in connection with claims 1-4, respectively.

Per claims 15 and 16:

Claims 15 and 16 are rejected under the same rationale set forth in connection with claim 1.

Per claims 19 and 20:

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Claims 19 and 20 are rejected under the same rationale set forth in connection with claim 4.

Response to Arguments

5. Applicant's arguments filed 14 December 2006 have been fully considered but they are not persuasive.

Per claims 1-4, 8-11, 15, 16, 19 and 20:

Applicant states that Hughes does not teach or reasonably suggest at least the features of receiving indications from a device via a network, each indication corresponding to a status...upon determining from the indication that the device is in a first state in which a first system has not been installed on the device, instructing the device through the network to install the first system prior to installing a second system, the second system including a first operating system. The Examiner respectfully disagrees, and in response directs Applicant to Figures 10A-10G of Hughes.

Figure 10A represents that a device has been turned on and connects to the server. In this instance, the device does not contain a base/boot OS, and the server recognizes this from the network indication indicating that the device does not contain a base OS. "If the boot server is 140 is found, then at step 1106, the client...is booted from the boot server 140 by downloading a boot OS from the boot server 140 to client 132..." in col. 18 lines 39-41. This downloading of the boot OS from the boot server is a result of a determination from the status indicator of the client that a first system (a boot OS) has not been installed on the device. Accordingly, the server directs the device to download and install the first system, which is clearly prior to any installation of a second system. Following such a series of steps, as indicated by Figure 10B, the client indicates to the server that the boot OS is installed, and subsequently "the server 204 downloads an initial options menu,

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from which the user can select a profile. Each profile corresponds to a respectively different configuration of OS and application software...the user selects one of the profiles...the server 204 downloads into the client's RAM 302 a first portion of each application and OS..." in col. 17 lines 54-67. This configuration of OS and application software constitutes the second system which includes another operating system, which is subsequently installed.

As such, Hughes discloses the required limitations and the rejection is proper and maintained.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- **Note U.S. Patent 6,963,981 to Bailey et al., which discloses a system with the ability to install three separate systems of different operating systems.**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Trenton J Roche
Examiner
Art Unit 2193

TJR


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